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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/376,654	08/18/1999	ALAN FOLMSBEE	5437-076/P41	6747

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EXAMINER

LANIER, BENJAMIN E

ART UNIT	PAPER NUMBER
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2132

DATE MAILED: 05/26/2004

12

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/376,654

Applicant(s)

FOLMSBEE, ALAN

Examiner

Benjamin E Lanier

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-18, 20-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-18, 20-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner:
- 10) ☒ The drawing(s) filed on 18 August 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Response to Amendment

1. Applicant's amendment of claims 1, 16, 22, and cancellation of claims 2, 19 has been fully considered and is entered.

Response to Arguments

2. Applicant's arguments, see paper 11, filed 30 April 2004, with respect to the rejection(s) of claim(s) 1-26 under Fosdick have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Kobus, U.S. Patent No. 4,864,494.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 14, 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 14 recites the limitation "the multiplexer of the instruction buffer" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3-18, 20-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Kobus, U.S. Patent No. 4,864,494. Referring to claims 1, 3, 4, 7, 12, 13, 17, 18, 20, 22, 23, 25, 26, Kobus discloses a software usage system wherein to prevent end users from patching protected software intentional errors are inserted into the software or function program so that in order for the software to function properly on the end user computer system, an electronic key is to be used in connection with the computer system (Abstract), which meets the limitation of an error correcting circuit being programmable. The key connected to the computer operating the software permits transfer of data signals from the computer to the key and back from the key to the computer. Circuitry is provided in the key for recognizing predetermined ones of security message portions in the software program and in response to such recognition for modifying such portions and for supplying the modified portions from the key back to the computer whereupon the computer generates new predetermined encrypted security message portions for storage in the software as replacements for the original security message portions. These replacement portions then are subsequently utilized in ongoing operation of the software to generate further replacements on a continuous basis. At random intervals comparisons are made of the security message portions which are stored in the software with the message portions supplied to the key. If the comparison is valid, the computer program is permitted to continue to operate error free. If the comparison is invalid the program with unnullified pre-set errors in it is executed to cause failure of operation (Col. 4, lines 5-40 & Col. 11, lines 42-65), which meets the limitations of an instruction buffer for receiving instructions for microprocessor execution memory location for storing an error correction key, the error correcting circuit controlled at

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least in part by said error correction key, wherein the control of the error correction circuit permits correction in a predictable manner of intentionally inserted errors in a compiled program provided for execution in accordance with a programmed error correction scheme, compiled computer program data in part controls said error correction, thereby providing complementary error correction with a combination of the error correction key and the information provided in the compiled computer program data.

Referring to claim 5, Kobus discloses that the electronic key is capable of retrieving, recognizing, decrypting, encrypting, and producing the null signals (Abstract), which meets the limitation of the key including bits expandable into a larger set of bits which control the instruction op code decoder, signal routing, and logic circuit reconfiguration.

Referring to claims 8, 9, 21, Kobus discloses that the computer system utilizes a CPU (Fig. 1), which would contain a ALU, and may be software programmed or operating under a fixed ROM program. The electronic keys interact with the CPU by way of an encrypted interface message or messages, software, and optional digital or analog process control sensors for additional control of program functions (Col. 6, lines 5-43), which meets the limitation of an ALU provides variability of logic for execution of encrypted op codes or standard op codes that provide standard instruction op code operation types.

Referring to claims 6, 10, 11, Kobus discloses that a vendor ID and product serial number are ROM encoded into the electronic key at the time of manufacture (Col. 7, lines 20-22). The electronic key can also be stored in RAM (Col. 10, lines 64-65).

Referring to claims 14, 15, Kobus discloses an abort code used as an alert to the CPU that a security violation has been determined by the individual electronic key. The abort signal is

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employed to permit erroneous operation of the software by the CPU preceded by a warning display on the computer. The CPU also generates this abort signal directly in the event that attempts are made to operate the software with a look alike key of without the key (Col. 10, lines 13-25).

Referring to claims 16, 24, Kobus discloses the use of handshaking protocols (Col. 16, lines 16-22 & Fig. 4).

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin E Lanier whose telephone number is 703-305-7684. The examiner can normally be reached on M-Th 7:30am-5:00pm, F 7:30am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on (703)305-1830. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Benjamin E. Lanier



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